

SENATE BILL REPORT

E2SHB 3216

As Reported By Senate Committee On:
Water, Energy & Telecommunications, February 26, 2008
Ways & Means, March 03, 2008

Title: An act relating to hydrokinetic energy.

Brief Description: Developing wave and tidal energy technologies in Washington.

Sponsors: House Committee on Apps Subcom GG (originally sponsored by Representatives Seaquist, Morris, Upthegrove, Hudgins, Loomis, Kelley, Morrell, VanDeWege, Ericks, Hankins and Eddy).

Brief History: Passed House: 2/15/08, 91-3.

Committee Activity: Water, Energy & Telecommunications:2/26/08 [DPA-WM, DNP, w/oRec].

Ways & Means: 3/03/08 [DPA(WET), w/oRec].

SENATE COMMITTEE ON WATER, ENERGY & TELECOMMUNICATIONS

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Rockefeller, Chair; Murray, Vice Chair; Delvin, Hatfield, Holmquist, Oemig and Regala.

Minority Report: Do not pass.

Signed by Senator Morton.

Minority Report: That it be referred without recommendation.

Signed by Senator Honeyford, Ranking Minority Member.

Staff: Scott Boettcher (786-7416)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended by Committee on Water, Energy & Telecommunications.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Pridemore, Vice Chair, Operating Budget; Carrell, Fairley, Hatfield, Hobbs, Keiser, Kohl-Welles, Oemig, Rasmussen, Regala, Rockefeller and Tom.

Minority Report: That it be referred without recommendation.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Signed by Senators Zarelli, Ranking Minority Member; Brandland, Honeyford, Parlette, Roach and Schoesler.

Staff: Richard Ramsey (786-7412)

Background: Washington has over 150 miles of ocean coastline and approximately 2,500 miles of shoreline in Puget Sound. In 2004 the Electric Power Research Institute rated the state with excellent offshore wave energy resources. Washington's tidal energy resources are unique in that a number of potential tidal energy sites are located near population centers. The major benefits of wave and tidal energy are that they are nonpolluting, reliable, and predictable.

Currently, there are eight tidal power projects and one wave power project under development in Washington. Tacoma Power is developing a tidal power project located in the Tacoma Narrows. Snohomish County Public Utility District is developing seven tidal power projects located throughout Puget Sound. Finavera Renewables is developing a wave power project in Makah Bay in Clallam County.

Wave and tidal power is in the early stages of development. Regulatory jurisdiction for emerging technologies is not always entirely clear. Federal agencies, with potential regulatory jurisdiction over the siting and operation of wave and tidal power projects, include: the Energy Regulatory Commission; the Minerals Management Service; the National Oceanic and Atmospheric Administration; the Environmental Protection Agency; the Army Corps of Engineers; and the Coast Guard. State agencies include: the Energy Facilities Site Evaluation Council; the Department of Ecology; the Department of Natural Resources; and the Department of Fish and Wildlife. Local governments and local electrical utilities may be involved if the project or parts of the project are located in the local jurisdiction or service area.

Summary of Bill (Recommended Amendments): The Washington Department of Community Trade and Economic Development and the Washington Energy Facilitation Site Evaluation Council must co-chair a multi-party, public-private work group to: (1) develop the Washington State Center for Excellence in Hydrokinetic Energy (Center); and (2) explore mechanisms to streamline current permitting for wave and tidal power projects.

Hydrokinetic energy means hydroelectric generation from ocean waves, tides, and currents, from free-flowing rivers and streams, and from water discharges.

The work group must report to the Legislature by December 1, 2008, with recommendations and draft legislation for operating the Center. The Center is to support a sustainable approach to hydrokinetic energy development balancing economic development, environmental protection, protection of existing wild fish and shellfish aquaculture interests, and community stability. The work group must address how the Center will: conduct and support research and demonstrations of wave and tidal energy technologies to facilitate deployment and commercialization in Washington; maintain processes to assist developers in permitting wave and tidal energy technologies to avoid negative impacts on marine ecosystems; coordinate with other governmental wave and tidal institutions and initiatives in the Pacific Northwest; fund itself through state, federal, or private sources; and govern itself as a public-private entity, considering the Life Sciences Discovery Fund as a model.

The work group must develop a work plan by June 30, 2009, detailing critical issues that need to be resolved to develop efficient, streamlined permitting processes for wave and tidal power projects. The work plan must be provided to the Legislature for review every six months. The work group may recommend development of a permit process which allows for concurrent public review, consolidated appeals, and other mechanisms which result in permit process efficiency. The work group must consider permitting issues associated with:

- disturbance or destruction of marine life, including acoustic impacts;
- toxic releases from leaks or accidental spills of liquids used in those systems with working hydraulic fluids;
- possible threat to navigation from collisions; interference of mooring and anchorage lines with commercial and sport fishing;
- tidal power plants that dam estuaries that can impede sea life migration and build up silt behind such facilities, impacting local ecosystems; and
- potential impacts of tidal power on tides, currents, and flushing.

The work group must provide a final report to the Legislature by June 30, 2010, on its findings and recommendations.

The act expires January 1, 2011, and is null and void if not funded in the omnibus appropriations act by June 30, 2008.

EFFECT OF CHANGES MADE BY WATER, ENERGY & TELECOMMUNICATIONS COMMITTEE (Recommended Amendments): Adds coastal commercial shellfish aquaculture as an identified stakeholder group to be on the work group. Adds protection of existing wild fish and private shellfish aquaculture as interests to consider by the work group.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: Yes.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Engrossed Second Substitute (Water, Energy & Telecommunications): CON: Primary concern with the bill as drafted is that it does not specifically call out protection of commercial and private shellfish aquaculture and wild fish resources. These are important industries and resources that should be considered by the work group as it pursues its work. Amendments to include shellfish aquaculture and wild fish in sections 4 and 5 of the bill would make this a better measure.

Persons Testifying (Water, Energy & Telecommunications): CON: Jim Jesernig, representing Pacific Coast Shellfish Growers; Dawn Vyvyan, representing Puyallup Tribe of Nations.

Staff Summary of Public Testimony (Ways & Means): None.

Persons Testifying (Ways & Means): No one.